UNITED STATES DISTRICT COURT
SOUTHERN OF NEW YORK

Marvin Obdulio Quinteros Moran, Petitioner, v. William JOYCE, Acting New York Field Office Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security; Kristi NOEM, Secretary, U.S. Department of Homeland Security; Pamela BONDI, U.S. Attorney General, Respondents.	Case No. 1:25-cv-09645-GBD **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Marvin Obdulio Quinteros Moran, is an asylum seeker from Guatemala. He fled Guatemala after members of the [redacted] nearly killed him, stabbing him several times on his torso and, although he was hospitalized and survived, the gang members vowed "to kill [him] next time." His pro bono counsel was notified by Mr. Quinteros Moran's neighbors on Monday, November 17, that Mr. Quinteros Moran had been detained on Sunday, November 16, 2025. Mr. Quinteros Moran was later able to call his counsel and report that on Sunday, November 16, he had been approached in the street in Jamaica, Queens, by several uniformed ICE agents. They showed him a picture of a man he did not know. They then asked Mr. Quinteros Moran questions about himself and his status, which he honestly answered.

2. Despite telling the ICE agents that he had a pending asylum claim, Mr. Quinteros Moraon was detained anyway, and has been held at 26 Federal Plaza in poor conditions since then. [1] ICE has given Mr. Quinteros Moran no explanation as to why he was detained aside from him being "in the United States illegally".

3. Mr. Quinteros Moran is now unlawfully detained at 26 Federal Plaza. The Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) take the position that as a person who entered the United States without inspection, Mr. Quinteros Moran is subject to mandatory detention without even an opportunity for a bond hearing, even though he was already previously detained pursuant to 8 U.S.C. § 1226(a) and then released on a $3,000 bond issued on July 23, 2013.

4. Recently, EOIR has issued a precedent decision holding that an immigration judge has no authority to consider bond requests for *any* person who entered the United States without admission, as all such persons are detained under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). This interpretation, which contravenes decades of prior case law, has been soundly rejected by dozens of federal courts around the country.

5. Mr. Quinteros Moran's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Mr. Quinteros Moran who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows for release on recognizance or bond.

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[1] Mr. Quinteros Moran's asylum claim was found to be credible but ultimately denied on the legal ground of nexus to a protected ground and his appeal is currently pending before the Board of Immigration Appeals.

6. In addition, Mr. Quinteros Moran's detention violates the Due Process Clause of the Fifth Amendment of the Constitution. His sudden re-detention, after an individualized decision to release him, without notice or an opportunity to respond, violates both his procedural and substantive due process rights.

7. Further, the punitive conditions of his confinement at a holding cell at 26 Federal Plaza violate his due process protections. From what he has described to his Counsel, he has not been able to shower or change his clothes since his detention on Sunday, November 16, 2025. Approximately 20 people are being held in a cell and there are three shared bathrooms that are not private. It is not a space intended to hold detainees for any meaningful period of time and there are no beds. He sleeps on a thin mattress on the floor with an aluminum cover.

8. Accordingly, this Court should order Mr. Quinteros Moran's immediate release from custody, or in the alternative, conduct a prompt bond hearing.

PARTIES

9. Petitioner Marvin Obdulio Quinteros Moran is a citizen of Guatemala who has been intermittently homeless in recent years but is has resided in Queens and, prior to his arrest, was renting a room in Jamaica, Queens. He has been in immigration detention at 26 Federal Plaza since November 16, 2025.

10. Respondent William Joyce is the Acting Director of the New York Field Office of ICE's Enforcement and Removal Operations within DHS. As such, Mr. Joyce is a legal custodian of and is responsible for Petitioner's detention and removal, including his detention in the holding cells at 26 Federal Plaza. He is named in his official capacity.

11. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and

Nationality Act (INA), and oversees ICE, which is responsible for Mr. Quinteros Moran's detention. She routinely transacts business in this district and is a legal custodian of Petitioner. She is named in her official capacity.

12. Respondent Pamela Bondi is the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws through the Executive Office for Immigration Review within the Department of Justice. The Board of Immigration Appeals, which issues precedential immigration decisions on custody, and the trial-level immigration court system are components of EOIR. Because she oversees the agency that adjudicates whether Quinteros Moran is eligible for release on bond, she is a legal custodian of Petitioner. She is named in her official capacity.

JURISDICTION, VENUE, AND EXHAUSTION OF REMEDIES

13. The federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by DHS. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States Constitution (the Suspension Clause).

14. This Court has authority to grant declaratory and injunctive relief. 28 U.S.C. §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

15. Venue is proper in this District because Mr. Quinteros Moran is currently detained in this district. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973).

16. Exhaustion of administrative remedies in the immigration habeas context is prudential, not statutory. *See Lopez Benitez v. Francis*, --- F. Supp. 3d ---, No. 35-cv-5937-DEH, 2025 WL 2371588, at *13 (S.D.N.Y. Aug. 13, 2025). Exhaustion in this case is excused for because it is futile and because it presents substantial constitutional questions. *See J.U. v. Maldonado*, 25-cv-4836, 2025 WL 2772765, at *3-4 (E.D.N.Y. Sept. 29, 2025) (finding futility and other exceptions to exhaustion in a similar case); *Lopez Benitez*, 2025 WL 2371588, at *14 (finding "no doubt" that a petition with similar claims raised a "substantial constitutional question that cannot properly be adjudicated administratively").

REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

18. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

FACTUAL BACKGROUND

19. Marvin Obdulio Quinteros Moran has resided in the United States since 2013, when he was released on a $3,000 bond. He lives in Jamaica, Queens, and he has meaningful ties to his neighbors. He helps an elderly neighbor with cancer with her house chores. He grocery

shops for a different elderly neighbor. He has worked in construction and in cleaning, and he sends money to support his mother and his son, [redacted] Mr. Quinteros Moran fears removal to Guatemala because he fears that the [redacted] will make good on their threat to kill him.

20. DHS placed Mr. Quinteros Moran in removal proceedings before the New York Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Mr. Quinteros Moran with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i) as someone who entered the United States without inspection.

21. On November 16, 2025, Mr. Quinteros Moran was approached in the street in Jamaica, Queens, by several uniformed ICE agents. They showed him a picture of a man he did not know, asking if he knew the man. He indicated that he did not. They then asked Mr. Quinteros-Moran where he was from and how he entered the United States and he told them that he was from Guatemala and had entered at the southern border with the United States. He told them that he had a pending asylum claim, but he was detained anyways. At some point he was asked whether he had been arrested and he answered honestly that he had. Mr. Quinteros Moran has struggled with homelessness during his time in the United States and has been arrested several times. Most of his charges were ultimately dismissed. He has been held at 26 Federal Plaza in poor conditions since then.

22. Mr. Quinteros Moran is now detained in a holding cell at 26 Federal Plaza. From what he has described to his counsel, he has not been able to shower or change his clothes since his detention on Sunday, November 16, 2025. Approximately 20 people are being held in a cell and there are three shared bathrooms that are not private. It is not a space intended to hold detainees for any meaningful period of time and there are no beds. He sleeps on a thin mattress on the floor with an aluminum cover. As of the last time he spoke to his counsel today,

November 19, 2025, he had not yet been served with papers related to his detention or told why ICE detained him.

23. Without relief from this court, Mr. Quinteros Moran faces the prospect of months, or even years, in immigration custody.

LEGAL FRAMEWORK

The INA's Custody Statutes

24. The INA describes three detention authorities that pertain to the majority of detained noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

25. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals who are "seeking admission," described under § 1225(b)(2).

26. Lastly, the INA also provides for detention of noncitizens who have a final administrative order of removal, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

27. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104—208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended in early 2025 by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

28. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

29. As a result, for more than twenty-five years, most people who entered without inspection and were placed in removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at the prior § 1252(a)).

The Respondents' Abrupt Policy Change on Bond Eligibility

30. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[2] claimed that all persons who entered the United States without inspection were now subject to no-bond detention under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

[2] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

31. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held for the first time that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

32. Since Respondents adopted these new policies, federal courts have uniformly rejected their new interpretation of the INA's detention authorities, including within the jurisdiction of the U.S. Court of Appeals for the Second Circuit. *See, e.g., Mata Velasquez v. Kurzdorfer*, No. 25-cv-493 (LJV), 2025 WL 1953796 (W.D.N.Y. July 16, 2025); *Lopez Benitez;* 2025 WL 2371588; *Samb v. Joyce*, No. 25-cv-6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Savane v. Francis*, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025); *J.U. v. Maldonado,* 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Artiga v. Genalo*, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025); *Hyppolite v. Noem*, 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025).

33. Similarly, dozens of district courts around the country have rejected this interpretation. *See, e.g., Demirel v. Fed. Det. Ctr. Phila.,* No. 2:25-cv-05488 (PD) (E.D. Pa. Nov. 18, 2025); *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d ---, 2025 WL 2782499, at *1 n.3 (W.D. Wash. Sept. 30, 2025) (citing over 20 district court decisions rejecting the government's position); *Ochoa Ochoa v. Noem*, 2025 WL 2938779, at *5 (collecting 20 cases in note 8 and accompanying discussion) *see also Hyppolite*, 2025 WL 2829511, at *12 (noting that the government conceded at oral argument that they were not "aware of *any* Article III court that had adopted their interpretation" of the statute) (emphasis in original).

34. Courts have uniformly rejected DHS's and DOJ's new interpretation because it defies the plain text of the INA. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal

hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

35. The text of § 1226 explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As district courts have found, the statutory bars to a bond hearing for inadmissible noncitizens with specific types of criminal history would all be rendered surplusage if in fact, *no* inadmissible noncitizens were eligible for bond. *See Artiga*, 2025 WL 2829434, at *7; *Hyppolite*, 2025 WL 2829511, at *10.

36. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

37. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Mr. Quinteros Moran who have already entered and were residing in the United States at the time they were arrested.

Due Process Violations

38. In addition, the sudden re-detention of noncitizens who were released into the interior of the United States and have been living without incident in the community raises serious due process concerns under *Mathews v. Eldridge*, 424 U.S. 319 (1976). Courts in this

district and around the country have found constitutional violations in ICE's abrupt detentions of individuals like Mr. Quinteros Moran with no pre-deprivation notice or opportunity to be heard before they lose their liberty and are subjected to highly restrictive, jail-like conditions of detention. *See, e.g., Hyppolite*, 2025 WL 2829511, at *13-15; *Artiga*, 2025 WL 2829434, at *9; *Chipantiza-Sisalema v. Francis*, 2025 WL 1927931, at *3 (S.D.N.Y. July 13, 2025) ("ICE summarily detained Chipantiza-Sisalema pursuant to an agency policy of arbitrary detention without affording her notice or opportunity to be heard.")

Remedies in Immigration Habeas Petitions

39. The "equitable and flexible nature of habeas relief" affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution. *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020). The most appropriate remedy in a case like this, where Mr. Quinteros-Moran was previously released to the community after paying a $3,000 bond, is release on the prior bond order, without need for additional bond, the use of alternatives to detention, or other conditions. *See Munoz Materano v. Arteta*, 2025 WL 2630826, at *20 (S.D.N.Y. Sept. 12, 2025) (ordering immediate release); *Chipantiza-Sisalema v. Francis*, 2025 WL 1927931, at *4 (same); *Mata Velasquez v. Kurzdorfer*, --- F. Supp. 3d ---, No. 25-cv-493 (LJV), 2025 WL 1953796 (W.D.N.Y. July 16, 2025) (ordering release and that petitioner could not be re-detained without a pre-deprivation hearing); *Hyppolite*, 2025 WL 2829511, at *17 (same).

40. In the alternative, the habeas court can hold its own custody hearing and determine whether the government can prove by clear and convincing evidence that Mr. Quinteros Moran must remain in custody, or whether he may be released on recognizance, an appropriate bond in light of his ability to pay, or supervised release. *See L.G.M. v. LaRocco*, 788

F.Supp.3d 401, 405-07 (E.D.N.Y. 2025) (ordering a bond hearing held by the habeas court, as this would be more efficient than delegating the task to the agency and ensure proper constitutional oversight); *Flores-Powell v. Chadbourne*, 677 F.Supp.2d 474-78 (D. Mass 2010) (discussion of habeas court's equitable power, which includes power to hold its own bail hearing)[3]

CLAIMS FOR RELIEF

COUNT I
Violation of the Immigration and Nationality Act

41. Petitioner incorporates by reference the allegations in the preceding paragraphs.

42. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States, such as Mr. Quinteros Moran.

43. Mr. Quinteros Moran is detained under § 1226(a) and is eligible for release on recognizance or on a reasonable bond. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention without review and violates the INA.

COUNT II
Fifth Amendment: Violation of Procedural Due Process

44. Petitioner incorporates by reference the allegations in the preceding paragraphs.

45. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government

[3] Should remedy become a issue in this case, the parties can further brief this issue. At this stage, Mr. Quinteros Moran submits that release is the most appropriate remedy.

custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Mr. Quinteros Moran has a fundamental interest in liberty and being free from official restraint.

46. The government's sudden re-detention of Petitioner without pre-deprivation notice or an opportunity to be heard, and without a hearing before a neutral adjudicator to determine whether he is a flight risk or danger, violates his right to due process.

COUNT III

Fifth Amendment: Violation of Substantive Due Process

47. Immigration detention is civil, not punitive, and must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore*, 538 U.S. at 527. (citing *Zadvydas*, 533 U.S. at 690). The Supreme Court has stated that the purpose or civil detention in this context is to "ensur[e] the appearance of aliens at future proceedings," *Zadvydas*, 533 U.S. at 690, and to prevent flight, *Demore*, 538 U.S. at 528.

48. Mr. Quinteros Moran's detention bears no relation to the purposes of civil commitment because he poses no danger or flight risk. In addition, he is being held in punitive conditions of confinement.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Southern District of New York while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner without conditions of supervision or alternatives to detention; or, in the alternative, conduct a bond hearing at which the government bears the burden to justify that his continued detention is necessary by clear and convincing evidence;

e. Declare that Petitioner's detention is unlawful;

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted,

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Dated: November 20, 2025, Brooklyn, NY

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Marvin Obdulio Quinteros Moran, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge. Dated this 20th day of November, 2025.

/s/ Ryan Clough
Ryan Clough, Esq.